

**Congress of the United States**  
**Washington, DC 20515**

June 15, 2017

The Honorable Tom Price, M.D.  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue Southwest  
Washington, D.C. 20201-0004

Dear Secretary Price:

Nearly 11,000 children in Florida today risk losing affordable health coverage due to the requirements of the Affordable Care Act ("ACA"). Florida Healthy Kids Corporation ("Healthy Kids"), a non-profit corporation that administers Florida's Children's Health Insurance Program (CHIP), needs regulatory assistance to fix this unintended consequence of the law.

Healthy Kids was one of the first programs in the nation to offer affordable health insurance to school-age children who do not qualify for Medicaid. It was one of the models for the national CHIP program in 1997. In recognition of its success, the national CHIP statute grandfathered Healthy Kids as a pre-approved state-designed CHIP program.

Healthy Kids administers CHIP benefits for children ages 5 through 18 years from families with incomes below 200% of the federal poverty level. Families that qualify for CHIP pay \$15 or \$20 per month for their health insurance, with nominal co-pays for services. In addition, the Florida Legislature also authorized a "full-pay" option that allows parents throughout Florida to purchase a quality child-centered plan without a subsidy. The Healthy Kids "full-pay" plan is the only child-centered policy available in the Florida insurance market.

For many years, the full-pay program was classified as a CHIP look-alike, offering the same high-quality benefits and low out-of-pocket costs to all Florida children, regardless of income or other eligibility criteria. Until October 2015, CHIP children and the 36,000 full-pay children were blended in the same risk pool, making the premiums very affordable compared to the other options in the private market.

This arrangement was put at risk by the ACA requirement to have "minimum essential coverage" (MEC). The ACA defines minimum essential coverage requirement to include CHIP programs (26 USC § 5000A(f)(1)(A)(iii)). However, the Centers for Medicare and Medicaid Services (CMS) did not extend this designation to Florida's full-pay CHIP program.

Healthy Kids expressed concern to CMS that separating the full-pay population from the subsidized CHIP program would increase the monthly premiums because the risk pool would be much smaller. Healthy Kids then attempted to obtain a Secretary-approved MEC status under the Other Coverage authority (21 USC § 5000A(f)(1)(E)) by selecting a health plan to only provide full-pay benefits. Unfortunately, the premium more than doubled, prompting thousands of families to immediately drop coverage. Premiums increased due to two factors: 1) the full-pay rate had to use a much smaller risk pool, and 2) the inclusion of other MEC required benefits.

It is a frustrating experience for a family to encounter an enormous premium increase as they move from a subsidized plan to a full-pay plan because their economic circumstances may have marginally improved. It is a plan with a similar benefit packet, but due to regulatory barriers the full-pay plan is offered at an unnecessarily higher cost. This is an unintended outcome from the ACA, and one that can be avoided.

We encourage you to exercise your authority under Section 5000A(f)(1)(E) and 45 CFR 156.604 to designate specific types of health insurance as MEC compliant. On behalf of the Florida Healthy Kids Corporation, and the Florida children who depend on it, we are asking that you also designate the Healthy Kids full-pay program to be MEC in its former CHIP look-alike status. The full-pay benefits package could be re-aligned with the CHIP benefits and both pools combined for pricing purposes. Premiums would go down, the high deductibles would be eliminated, and many more Florida families would be able to take advantage of the child-centered coverage Healthy Kids offers.

On May 30, CMS verbally confirmed through staff conversations that it is acceptable for the Florida Healthy Kids Corporation to re-blend the risk pools for the subsidized and full-pay populations as one method to reduce full-pay premiums. We ask that CMS also issue regulations clarifying that full-pay plans can continue to do this. That would provide greater certainty to states that wish to offer a full-pay CHIP option in the future. This would help more than 11,000 Florida children.

We support the President's and your efforts to bring down health care costs, and roll back unnecessary regulatory barriers driving up the cost of health care for all Americans. We appreciate any steps you take allowing Healthy Kids to bring affordable coverage within reach of Florida families.

Thank you for your consideration of this matter.

Sincerely yours,



Gus M. Bilirakis  
Member of Congress



Marco Rubio  
U.S. Senator